THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 14208 OF 2007

% 5-07-2007

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V.Bikshapathi S/o.Papaiah

…Petitioner

And

$ The Deputy Registrar of Cooperative Societies,
Bhongir Division, Nalgonda District & others

…Respondents

! COUNSEL FOR PETITIONER: Mr.D.V.Bhadram

^ COUNSEL FOR RESPONDENTS: G.P. for Cooperation

< Gist:

> Head Note:

? CITATIONS:

-Nil-

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 14208 OF 2007

Dated 5th July 2007

Between:

V.Bikshapathi S/o.Papaiah

…Petitioner

and

The Deputy Registrar of Cooperative Societies,
Bhongir Division, Nalgonda District & others

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 14208 OF 2007

O R D E R:

The petitioner functioned as a clerk in Chinnaravulapally Multipurpose Cooperative Society, Bibinagar Mandal, Nalgonda District (for short "the Society"), up to 24.6.2007. An inspection was caused, under Section 52 of the A.P. Cooperative Societies Act, 1964 (for short "the Act"), by the Inspecting Officer, into the affairs of the society. A report, dated 31.10.1989, was submitted after the inspection. Based on the report, surcharge proceedings, under Section 60 of the Act, were initiated against the petitioner. The Deputy Registrar of Cooperative Societies, Bhongir, the

1st respondent herein, passed order dated 6.7.1992, requiring the petitioner to deposit a sum of Rs.6,375/-, with interest at 18%.

On a representation made by the petitioner, the

1st respondent reviewed his order, through proceedings dated 8.4.1993 and took the view that the petitioner is liable to pay only a sum of Rs.100/-. Thereafter, the matter was reopened and another

order, dated 14.12.1995, was passed under Section 60, to the effect that the petitioner is liable to pay a sum of Rs.4,000/-, with interest. Aggrieved by this order, the petitioner filed C.T.A.No.81 of 2003, before the A.P. Cooperative Tribunal, at Warangal. The appeal was dismissed on 12.2.2007.

Learned counsel for the petitioner submits that the very basis for initiation of surcharge proceedings was defective, inasmuch as the inspection under Section 52 of the Act was not conducted, in accordance with law. He further submits that once an order under Section 60 was passed, there was no basis for reviewing it, and complains that though these grounds were urged before the Tribunal, the same were not taken into account.

Learned Government Pleader for Cooperation, on the other hand, submits that the petitioner did not raise any ground pointing out defect, or infirmity, in the proceedings, under Section 52. He further contends that though a surcharge order was passed on 6.7.1992, it was reviewed, at the instance of the petitioner, and it is not open to him, to take an objection for an exercise of similar nature, at a later point of time.

Proceedings under Section 60 of the Act can be initiated, on the basis of the outcome of an inspection, audit, or enquiry, conducted under the relevant provisions of the Act. In the instant case, the petitioner was surcharged, on the basis of the report, submitted after conducting the inspection. The petitioner had full opportunity to raise all the factual and legal grounds available to him, in response to the show-cause notice issued, under
Section 60. The record does not disclose that the petitioner urged any grounds, touching upon the validity of the proceedings under Section

52. Therefore, it is not open to him, to raise the ground, at this stage.

The second plea, raised by the petitioner is that an order under Section 60, once passed, cannot be reopened, or reviewed by the same authority. It is stated that in an order, dated 8.4.1993, passed under Section 60, the liability of the petitioner was fixed at Rs.100/-, whereas, the 1st respondent reopened the matter, and through a fresh order passed on 14.12.1995, enhanced the liability to Rs.4,000/-.

The point urged by the petitioner is no doubt valid and legal. The authority, who passes the order under Section 60, cannot review the same, since he is not vested with such power. Had it been a case, where the order dated 8.4.1993 was the first one, passed against the petitioner, and it was reviewed later on, there would not have been any difficulty, in setting aside the subsequent order. The fact remains that the first order passed against the petitioner is the one, dated 6.7.1992, in which, the liability of the petitioner was shown at Rs.6,375/-. Thereafter, two more orders were passed on 8.4.1993 and 14.12.1995, against the petitioner, under the same provision. One is at the instance of the petitioner himself, and the other, on the own accord of the authority. If the contention of the petitioner is to be accepted, both the two orders referred to above, have to be ignored, and the one passed on 6.7.1992 is to be treated as valid. The petitioner wants this court to take the second order, i.e. the one passed on 8.4.1993, as valid, and the subsequent one, as not legal. This plea cannot be accepted.

Therefore, this court does not find any basis to interfere with the order passed by the Tribunal. At any rate, the amount is very meagre, and the petitioner dragged on the proceedings for the past 1½

decades, on one pretext or the other.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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5th July 2007

L.R.copies be marked.
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